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BEFORE THE FEDERAL ELECTION COMMISSION

2001 OCT 17 A 11:46

In the Matter of

Friends of Ronnie Shows and Cecil Brown, as treasurer
Carl L. Nicholson, Jr.

MURs 5017 and 5205

SENSITIVE

GENERAL COUNSEL'S REPORT #4

I. ACTIONS RECOMMENDED:

Take no

action with respect to the Candidate, Ronnie Shows and 13 other individuals.

II. BACKGROUND

On May 22, 2001, the Commission found reason to believe that the Committee violated 2 U.S.C. §§ 441a(f), 441b(a), 441f, 441g, and 434(b)(3)(A) by accepting excessive contributions from individuals and political committees, accepting prohibited contributions, accepting a contribution in the name of another, accepting excessive currency contributions and failing to properly itemize contributions from individuals.

The Commission also found reason to believe that Carl L. Nicholson Jr. violated 2 U.S.C. §§ 441a(a)(1)(a) and 441f by making an excessive contribution and by making a contribution in the name of another due to a \$15,000 check he wrote to the Committee. The available information indicated that Mr. Nicholson, his wife and 13 others agreed to contribute to the Shows campaign, and it appeared that these individuals agreed to give \$1,000 each to Mr. Nicholson.¹ The Commission requested additional information about this transaction

¹ The Committee originally reported the activity at issue as contributions of \$1,000 from 15 individuals, rather than one \$15,000 contribution from Mr. Nicholson. In addition to contributions from Carl L. Nicholson, Jr., and Martha Nicholson, the Committee's 1998 12 Day Pre-Primary Report itemizes ten \$1,000 contributions received

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2 The Commission also decided to take no action at that time with respect to the

3 Candidate and with respect to the several individuals that appeared to have been involved in the

4 transaction between Mr. Nicholson and the Committee.²

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13 **III. NICHOLSON AND COMMITTEE RESPONSES**

14 With respect to the Nicholson transaction, the Committee indicates that the Candidate

15 asked Mr. Nicholson both to contribute and to help raise funds from others. *Id.* Mr. Nicholson

16 advised the campaign that 13 of his friends and associates, along with Mr. Nicholson and his

17 wife, wished to contribute \$1,000. According to the response submitted by the Committee, Mr.

on May 8, 1998 from individuals identified as employees of Carl Nicholson's accounting firm, Nicholson & Company, P.A., and, in some instances, their apparent spouses: David Fortenberry, Richard Halbert, John Harvey, Bill Kelly, Frank McWhorter, Jr., Peggy McWhorter, Robert Riley, Susan Riley, Richard Topp, and Debra Topp. The three additional individuals are the only other contributors on the report itemized as contributing \$1,000 on May 8, 1998: B. J. Selters, Charles Warren, and Andrea Warren. However, on October 6, 1999, the Committee amended its 1998 12 Day Pre-Primary Report to reflect a single \$15,000 contribution from Mr. Nicholson received on May 5, 1998. The Committee reported the refund solely to Mr. Nicholson in the amount of \$13,000 on June 18, 1999.

² The Commission also found reason to believe that Lawrence Warren violated 2 U.S.C § 441a(a)(1)(A) and decided to enter pre-probable cause conciliation with him. Mr. Warren signed the conciliation agreement and paid the civil penalty. The Commission also found reason to believe against several other respondents, but determined to take no further action with respect to these respondents.

Nicholson was erroneously advised by the campaign that these contributions could be sent in a single check. *Id.* The response states this was an "honest mistake." *Id.* The campaign realized its mistake and refunded the money, retaining only the contributions from Mr. Nicholson and his wife. *Id.* The response also concedes the campaign erred in failing to collect a timely attribution statement from Mrs. Nicholson. *Id.*

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23.04.406.4033

1 In addition, this Office recommends that the Commission take no action with respect to
2 the 13 individuals. Although the Committee originally reported that these individuals made
3 \$1,000 contributions each, the reports were amended to show that only Mr. Nicholson made a
4 contribution, and not these individuals. Further, although Mr. Nicholson provided a list of the
5 individuals' names and addresses to the Committee immediately after he made the \$15,000
6 contribution, it is not clear that they were aware that their names were provided to the Committee
7 or that they knowingly permitted their names to be used to effect a contribution in the name of
8 another. See 2 U.S.C. § 441f. This Office notes that in order to determine the knowledge of
9 these 13 individuals, interrogatories directed toward these individuals would be necessary.
10 Because of the amount of the violation and the resources that would be required to investigate the
11 knowledge of the individuals, this Office recommends that the Commission take no action with
12 respect to these individuals. In addition, it does not appear that the Candidate was personally
13 responsible for the activity at issue in this matter. Therefore, this Office also recommends that
14 the Commission take no action with respect to the Candidate.⁶

⁶ Although Mr. Nicholson's response dated August 22, 2001 refers to Mr. Shows and not the Campaign or the Committee, all other information from Mr. Nicholson and the Committee refer to the Campaign or the Committee and not Mr. Shows. This Office contacted counsel for Mr. Nicholson in order to question whether the reference to the Candidate was an error and the Candidate was not personally responsible for this matter. Counsel for Mr. Nicholson indicated that the Candidate had directed Mr. Nicholson to contact the campaign. Mr. Nicholson was


V. RECOMMENDATIONS

Take no action with respect to : David Fortenberry, Richard Halbert, John Harvey, Bill Kelly, Frank McWhorter, Jr., Peggy McWhorter, Robert Riley, Susan Riley, B. J. Selters, Richard Topp, Debra Topp, Charles Warren, and Andrea Warren and close the file with respect to these respondents.

Take no action with respect to the Candidate, Ronnie Shows and close the file with respect to this respondent.

Lawrence H. Norton
General Counsel

10/17/01
Date

BY: 
Gregory R. Baker
Acting Associate General Counsel

Staff assigned
Susan L. Kay